an inner circular board rotatably attached within said central hole of said doughnut-shaped outer board such that the bottom surface of said doughnut shaped outer board and said inner circular board forming a continuous flush bottom surface for the circle drawing tool, said inner circular board having at least one insertion hole disposed thereon to engage said writing instrument, so that when said drawing tool is placed on said material and said writing instrument is engaged with said at least one insertion hole, and said inner circular board is rotated relative to said doughnut-shaped outer board, a circle is drawn on said material.--

3' Cancel

REMARKS

Claims 1-14 are pending.

Claims 1-14 stand rejected.

Claim 4 has been re-introduced to the patent.

Claims 1-14 are submitted herein for reconsideration.

No new matter has been added.

In paragraph 1 of the Office Action the Examiner has stated that the statement of loss needs to be submitted. Applicant respectfully submits that a statement of loss of the original patent document was submitted with the filing. A copy of the document as well as the stamped received postcard, noting the enclosure of the statement of loss is attached hereto as Exhibit 1. As such, Applicant respectfully requests that this requirement under 37 CFR 1.178 be acknowledged as having been met by the Applicant.

In paragraph 3 of the Office Action, the Examiner has rejected claims 4-11 and 14

under 35 U.S.C. § 102 as being anticipated by Hartbauer et al. (U.S. Patent No. 2,958,132). In paragraph 6 of the Office Action, the Examiner has rejected claim 1 under 35 U.S.C. § 103 as being obvious over Hartbauer. In paragraph 8 of the Office Action, the Examiner has rejected claims 2 and 12 under 35 U.S.C. § 103 as being obvious over Hartbauer in view of Stober, Jr. et al. (U.S. Patent No. 3,791,036). In paragraph 10 of the Office Action, the Examiner has rejected claims 3 and 13 under 35 U.S.C. § 103 as being obvious over Hartbauer in view of Leung (U.S. Patent No. 5,033,200).

Applicant respectfully disagrees with the Examiner's contentions and submits the following remarks in response.

It is noted that claim 4, added by preliminary amendment at the filing of this reissue Application, has been re-introduced to the patent and now includes the limitation, "such that the bottom surface of said doughnut shaped outer board and said inner circular board forming a continuous flush bottom surface for the circle drawing tool." The entire claim 4 is represented as new herein according to the provisions set forth in 37 CFR 1.73(d) for amending re-issue applications, where all amendments are made relative to the patent. This new element is supported in the original specification as filed in both Figures 4 and 5 and as an inherent quality necessary for the operation of the circle drawing tool as disclosed in column 2, lines 61-67.

Turing to the claims, the present invention as claimed in independent claim 1 is directed to an improved circle drawing tool comprised of a doughnut-shaped outer board, a circular slide track and an inner circular board. The doughnut-shaped outer board has a large central hole with the inner circular board being rotatably received therein. The central hole is provided with a peripheral flange with a V-shaped groove formed at the

root of the flange so as to permit the circular slide track having a V-shaped cross section to be housed therein. The inner circular board has a slightly smaller diameter than the circular slide track so that the inner circular board is rotatably engaged with the doughnutshaped outer board.

A plurality of round holes of different diameters are disposed on the peripheral area of the doughnut shaped outer board, ranging consecutively from a smallest hole to a largest hole. Four radial lines of pen insertion holes are separated from each other. The four radial lines are disposed at four positions at 90 degrees apart on the outer board. The position of each starting point of each line is 1 mm farther away from the center of the outer board consecutively. Ten radial lines are equally spaced and placed on the inner circular board, where each line has a plurality of consecutive pen insertion holes defined thereon with every two neighboring points being 10 mm spaced apart. Each starting point of all the 10 radial lines is 1 mm farther away consecutively from the center of the circular board.

The peripheral wall of the inner circular board is disposed a recessed track in which a plurality of receiving cavities are located for housing rolling balls. The cavities are spaced at a proper distance from each other so that the rolling balls are able to be smoothly engaged with the V-shaped slide track, permitting the inner board and the outer board to be relatively rotated with respect to each other when a pen is placed in one of the pen insertion holes for drawing a circle.

The present invention as claimed in independent claim 4 claims a circle drawing tool for use with a writing instrument to draw circles on a material comprised of a doughnut-shaped outer board having a central hole and an inner circular board rotatably

attached within the central hole of the doughnut-shaped outer board. The bottom surface of the doughnut shaped outer board and the inner circular board form a continuous flush bottom surface for the circle drawing tool. The inner circular board has at least one insertion hole disposed thereon to engage the writing instrument, so that when the drawing tool is placed on the material and the writing instrument is engaged with the at least one insertion hole, and the inner circular board is rotated relative to the doughnut-shaped outer board, a circle is drawn on the material.

The cited prior art, namely, Hartbauer, is directed to a centerless compass for making circles. The Hartbauer compass utilizes a base having a disk located therein. The disk rotates within the base while the base is held in place.

As discussed in column 2, lines 10-16,

> "The lower edge 24 of the disk 12 is slightly recessed above the lower edge 25 of the body B so as not to contact the surface upon which the device is being used. The Body B is further raised from this surface by downwardly extending projections 26. By the above construction raising the disk 12 above the surface of the drawing being executed, as well as further raising the body B, little or no smearing of the drawing occurs."

In this configuration, it is explicitly necessary for the proper operation of the Hartbauer compass that the rotating disk is elevated relative to the base and the base is further elevated from the surface being operated on. This configuration is clearly illustrated in Figs, 2, 3, 4 and 8 and is referred to in the specification as conferring a particular advantage regarding the non-smudging of drawn circles.

This is not an analogous structure to that claimed in the present invention. In fact, the Hartbauer reference teaches away from the structure of the present invention in that the present invention could not operate in such a configuration. As illustrated in both Figs. 4 and 5 of the present invention, and as discussed above, the rotating center portion

is not elevated with respect to the outer doughtshaped support.

More specifically, as claimed in claim 1, the rolling balls are able to be smoothly engaged with the V-shaped slide track, *permitting the inner board and the outer board to be relatively rotated with respect to each other* when a pen is placed in one of the pen insertion holes for drawing a circle. Such an operation is specifically taught away from in the Hartbauer reference. Pressure, applied to the center of the device, will not cause it to contact the surface because it is raised relative to the base. Thus, the outer board can not be rotated relative to the inner circle as is necessary in the present invention to use insertion holes 14. Doing so would case a bending of the Hartbauer device interfering with the proper drawing of circle.

Furthermore, as claimed in claim 4, the bottom surface of the doughnut shaped outer board and the inner circular board form a continuous flush bottom surface for the circle drawing tool. This structure is clearly not present in the Heartbauer reference and would in fact frustrate the operation of the Hartbauer compass causing smudging of the drawn circle, a drawback the Hartbauer reference specifically seeks to overcome.

As such, there is no teaching or suggestion in Hartbauer that discloses the present invention as claimed. For example, there is no teaching or suggestion in Hartbauer that discloses permitting the inner board and the outer board to be relatively rotated with respect to each other when a pen is placed in one of the pen insertion holes for drawing a circle.

Likewise, there is no teaching or suggestion in Hartbauer that discloses the bottom surface of the doughnut shaped outer board and the inner circular board forming a continuous flush bottom surface for the circle drawing tool.

Additionally, even if the Hartbauer reference was combined with other reference such as the Stober Jr. or Leung reference, they still would not teach or suggest the present invention as claimed. In fact, the Hartbauer reference specifically teaches away from combination with any reference, including the two cited by the Examiner, that would have the outer support and the inner circle being rotatable relative to one another or would have a continuous bottom surface between the inner circle and the support.

As such, Applicant requests that the rejection to independent claims 1 and 4 and the rejection of claims 2-3 and 5-14 that depend therefrom respectively be withdrawn and respectfully submit that the present invention as claimed is now in condition for allowance, the earliest possible notice of which is earnestly solicited. If the Examiner feels that a telephone interview would advance the prosecution of this application he is invited to contact the undersigned at the number listed below.

Respectfully submitted

SOFER & HAROUN, LLP

Dated: 1/22/03

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